

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 29.01.2019

CORAM
THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.Nos. 20344 to 20348 of 2018

K.Mohanan	... Petitioner in W.P.20344/2018
A.Suseela	... Petitioner in W.P.20345/2018
M.Gnanasundari	... Petitioner in W.P.20346/2018
N.Elanchezhian	... Petitioner in W.P.20347/2018
M.K.Venkatesan	... Petitioner in W.P.20348/2018

Vs

1. The Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai - 600 009.
2. The Member Secretary,
Chennai Metropolitan Development
Authority, Egmore,
Chennai - 600 008.
3. The Special Deputy Collector,
Land Acquisition,
Chennai Metropolitan Development
Authority, Egmore,
Chennai - 600 008.
4. The Special Tahsildar,
Land Acquisition,
Chennai Metropolitan Development
Authority, Egmore,
Chennai - 600 008.

.. Respondents in all W.Ps.

PRAYER in all W.Ps. : Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to deposit the entire compensation amount to the credit of LAOP No.23, 21, 20,24 and 26 of 1983, on the file of Sub-Court, Chengalpattu Pursuant to the Judgment and Decree of this Court dated 29.07.1997 made in Cross Objection in A.S.No.767/1984, 766/1984, 655/1987, 768/1984, 770/1984 by fixing a time limit.

For Petitioner : Mr. M.S.Subramanian
in all W.Ps.

For Respondents in : Mr. D.Raja,
Addl. Gov. Pleader,
for R1
(in W.P.20344,20345,20346 of 2018)

: Mr. C.Thirumaran,
Special GovernmentPleader,
for R1 in W.P.Nos.20347 &
20348 of 2018)

: Mr.P.S.Ganesh,
standing counsel,
for R2
in all W.Ps.

C O M M O N O R D E R

These writ petitions have been filed seeking a direction to deposit the compensation amount payable to the petitioner as awarded by this Court in A.S.Nos.767/1984, 766/1984, 655/1987, 768/1984, 770 /1984 dated 29.07.1997.

2. According to the petitioners, the petitioners' lands were sought to be acquired for the Ambattur Neighbourhood Scheme for the Tamilnadu Housing Board, and an award has also been passed on 12.11.1982 fixing the market value at the rate of Rs.210/- per cent. Not being satisfied with the above award, the petitioners sought for a reference under Section 18 of the Land Acquisition Act, and the reference Court enhanced the compensation from Rs.210/- per cent to Rs.654/- per cent, by a Judgment and Decree dated 29.07.1983. Challenging the above award passed by the reference Court, the Land Acquisition Officer has filed an appeal before this Court in A.S.Nos. 765 to 771 of 1984, wherein the petitioners have also filed their cross-objections, and this Court by Judgment and Decree dated 29.07.1997, fixed the market value at the rate of Rs.760/- per cent, and that has become final. Based on the above Judgment and Decree passed by this Court, the petitioner also levied Execution Petitions before the Sub-Court, Poonamallee in E.P.SR.No.4082, 4083 of 2009 dated 24.07.2009, E.P.S.R.No.4185 of 2009, dated 28.07.2009, 4085 of 2009, dated 24.07.2009, 4087 of 2009, dated 28.07.2009. But the Execution Petitions were not even numbered by the Execution Court on the ground that the papers were not proper. In the said circumstances, the petitioners have filed these writ petitions.

3. The learned counsel appearing for the respondents would submit that the respondents have paid entire compensation amount as per the decree before the reference Court.

4. The learned counsel appearing for the petitioner would submit that even though some amount has been deposited by the respondents, the respondents did not deposit the entire amount as per the decree passed by this Court and the respondents have deducted interest for the amount already deposited by them before the Execution Court, pending appeal, which, they are not entitled to as per the judgment of the Supreme Court reported in 2006 (8) SCC 457 (Gurupreet Singh /vs/ Union of India).

5. Admittedly, now some amount has been deposited by the respondents. But it is the contention of the learned counsel appearing for the petitioner that the deposit is not in conformity with the decree and there are many factual errors in the calculation arrived by the respondents. As there is a factual dispute regarding the award amount payable by the respondent, this Court cannot go into all those aspects. Since the execution proceedings is pending before the reference Court, the petitioner can raise all these objections before the Execution Court and the Execution Court will decide the same.

6. The learned counsel appearing for the petitioners would submit that even though the petitioners have filed an Execution Petitions as early as 2009, now the Execution Court informs the petitioner that the Execution Petitions are not available with the Court. In the above circumstances, the Execution Court is directed to trace out the paper and number the Execution Petitions and hear the same. If the Execution Court is not able to trace out the petition, it is always open to the petitioners to approach the concerned Execution Court and file necessary application to reconstruct the papers and proceed with the Execution Proceedings.

7. With the above directions, these writ petitions are disposed of. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Secretary to Government,
Housing and Urban Development
Department, Fort St. George,
Chennai - 600 009.

2. The Member Secretary,
Chennai Metropolitan Development
Authority, Egmore,
Chennai - 600 008.

3. The Special Deputy Collector,
Land Acquisition,
Chennai Metropolitan Development
Authority, Egmore,
Chennai - 600 008.

4. The Special Tahsildar,
Land Acquisition,
Chennai Metropolitan Development
Authority, Egmore,
Chennai - 600 008.

5. The Subordinate Judge,
Chengalpet.

+1cc to Mr.P.S.Ganesh, Advocate, S.R.No.8133

+2ccs to Mr.M.S.Subramanian, Advocate, S.R.No.7741

+1cc to the Government Pleader, S.R.No.7549

W.P.No. 20344 of 2018
and

M.P.No. 36155 of 2018

PA(CO)

rrs 18/03/2019